IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

JUDICIAL WATCH, INC.,)	
425 Third Street SW, Suite 800)	
Washington, DC 20024,)	
)	Civil Action No.
Plaintiff,)	
v.)	
)	
U.S. DEPARTMENT OF STATE,)	
The Executive Office)	
Office of the Legal Adviser, Suite 5.600)	
600 19th Street, N.W.)	
Washington, DC 20522,)	
)	
Defendant.)	
)	

COMPLAINT

Plaintiff Judicial Watch, Inc. brings this action against Defendant U.S. Department of

State to compel compliance with the Freedom of Information Act, 5 U.S.C. § 552 ("FOIA"). As

grounds therefor, Plaintiff alleges as follows:

JURISDICTION AND VENUE

1.   The Court has jurisdiction over this action pursuant to 5 U.S.C. § 552(a)(4)(B)

and 28 U.S.C. § 1331.

2.   Venue is proper in this district pursuant to 28 U.S.C. § 1391(e).

PARTIES

3.   Plaintiff Judicial Watch, Inc. is a not-for-profit, educational organization

incorporated under the laws of the District of Columbia and headquartered at 425 Third Street

SW, Suite 800, Washington, DC 20024. Plaintiff seeks to promote transparency, integrity, and

accountability in government and fidelity to the rule of law. As part of its mission, Plaintiff

regularly requests records from federal agencies pursuant to FOIA. Plaintiff analyzes the

agencies' responses and disseminates both its findings and the requested records to the American

public to inform them about "what their government is up to."

4.   Defendant U.S. Department of State is an agency of the United States

Government headquartered at 2201 C Street, N.W., Washington, DC 20520. Defendant has

possession, custody, and control of records to which Plaintiff seeks access.

STATEMENT OF FACTS

5.   On October 12, 2018, Plaintiff submitted a FOIA request to Defendant seeking

access to the following records:

1. **All records related to the appointment of Cardinal Theodore McCarrick as an official observer on behalf of the State Department to the Helsinki Accords Commission and/or to serve in any other State Department capacity.**

2. **All records related to the issuance of a U.S. diplomatic passport to Cardinal McCarrick, including but not limited to, records of communications between State Department officials about it.**

3. **All records related to the disbursement of funds made to Cardinal McCarrick, or to other parties for services provided by Cardinal McCarrick, including but not limited to expense reports and travel vouchers, for work conducted in connection with US Government-related activities.**

4. **All materials used to brief Cardinal McCarrick in preparation for any US Government-related travel, including but not limited to, memoranda, PowerPoint presentations, hand-outs, et al.**

6.   The time frame for Plaintiff's FOIA request is 1986 to 2016.

7.   By a letter dated November 29, 2018, Defendant acknowledged receipt of

Plaintiff's request on October 19, 2018 and advised Plaintiff that the request had been assigned

the tracking number F-2019-00711.

8.   Pursuant to 5 U.S.C. § 552(a)(6)(A)(i), the Defendant was required to determine

whether to comply with Plaintiff's request within (20) working days after its receipt and to notify

Plaintiff immediately of its determination, the records thereof, and the right to appeal any

adverse determination. Defendant's determination was due on or about November 21, 2018.

9.   As of the date of this Complaint, Defendant has failed to: (i) produce the

requested records or demonstrate that the requested records are lawfully exempt from

production; (ii) notify Plaintiff of the scope of any responsive records Defendant intends to

produce or withhold and the reasons for any withholdings; or (iii) inform Plaintiff that it may

appeal any adequately specific, adverse determination.

COUNT I
Violation of FOIA, 5 U.S.C. § 552

10.   Plaintiff realleges paragraphs 1 through 11 as if fully stated herein.

11.   Plaintiff is being irreparably harmed by reason of Defendant's violation of FOIA,

and Plaintiff will continue to be irreparably harmed unless Defendant is compelled to comply

with FOIA.

12.   To trigger FOIA's administrative exhaustion requirement, Defendant was

required to determine whether to comply with Plaintiff's request within twenty (20) working

days of receiving the request, or on or about November 21, 2018. At a minimum, Defendant was

required to: (i) gather and review the requested documents; (ii) determine and communicate to

Plaintiff the scope of any responsive records Defendant intended to produce or withhold and the

reasons for any withholdings; and (iii) inform Plaintiff that it may appeal any adequately

specific, adverse determination. *See*, *e.g.*, *Citizens for Responsibility and Ethics in Washington*

v. Federal Election Commission, 711 F.3d 180, 188-89 (D.C. Cir. 2013).

13.   Because Defendant failed to determine whether to comply with Plaintiff's request

within the time period required by FOIA, Plaintiff is deemed to have exhausted its administrative

appeal remedies. 5 U.S.C. § 552(a)(6)(C)(i).

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WHEREFORE, Plaintiff respectfully requests that the Court: (1) order Defendant to conduct searches for any and all records responsive to Plaintiff's FOIA request and demonstrate that it employed search methods reasonably likely to lead to the discovery of records responsive to Plaintiff's FOIA request; (2) order Defendant to produce, by a date certain, any and all non-exempt records responsive to Plaintiff's FOIA request and a Vaughn index of any responsive records withheld under claim of exemption; (3) enjoin Defendant from continuing to withhold any and all non-exempt records responsive to Plaintiff's FOIA request; (4) grant Plaintiff an award of attorneys' fees and other litigation costs reasonably incurred in this action pursuant to 5 U.S.C. § 552(a)(4)(E); and (5) grant Plaintiff such other relief as the Court deems just and proper.

Dated: January 18, 2019

Respectfully submitted,

JUDICIAL WATCH, INC.

/s/ *James F. Peterson*
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